

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Case No. 08-20411

Plaintiff,

Hon. Thomas L. Ludington
United States District Judge

vs.

MATTHEW JAMES REMBISH,

Michael Hluchaniuk
United States Magistrate Judge

Defendant.

REVOCATION OF RELEASE AND ORDER OF DETENTION

Procedural Background

The defendant, Matthew Rembish, was indicted on July 30, 2008, by a grand jury, and charged with theft of mail, in violation of 18 U.S.C. § 1708; and possession of stolen mail, in violation of 18 U.S.C. § 1708. The defendant was arrested and initially appeared in court on August 11, 2008. At that time he was temporarily detained pending a detention hearing on August 12, 2008. He was subsequently released on an unsecured bond with a number of conditions including a condition that he report to the Pretrial Officer as directed. On September 17, 2008, the Pretrial Officer filed a petition for an order to revoke defendant's bond,

and for the issuance of an arrest warrant based upon defendant's failure to appear before the Pretrial Officer on September 2,2008, and September 3, 2008. On October 8, 2008, defendant appeared before the undersigned magistrate judge to answer to the charges in the petition.

Applicable Law

The circumstances where a person released under 18 U.S.C. § 3142 is charged with violating the conditions of his or her release is governed by 18 U.S.C. § 3148. If a person is found to have violated the conditions of release, that person can have their release revoked and an order of detention can be entered.

Where such an allegation is made, a hearing should be conducted and if, after the hearing, it is determined that (1) there is probable cause to believe that a crime has been committed or (2) clear and convincing evidence that another violation has been committed, and, there is no condition or combination of conditions of release that will assure that the person will not flee or pose a danger to the safety of any other person or the community, or, the person is unlikely to abide by any condition or combination of conditions of release, the person "shall" be detained. § 3148(b)(1) and (2).

Additionally, if there is probable cause to believe that the person has

committed a felony while on release, a rebuttable presumption arises that no condition or combination of conditions will assure that the defendant will not pose a danger to the safety of any other person or the community. *Id.*

At the hearing, the government moved for the detention of the defendant based upon the report of the Pretrial Officer. Counsel for the defendant did not contest the statements as outlined by the Pretrial Officer in his report.

Accordingly, I find by clear and convincing evidence that the defendant has failed to abide by the conditions of his release by not reporting to the Pretrial Officer as required while on bond in this matter. I further find that the defendant is unlikely to abide by the conditions of bond in the future.

IT IS THEREFORE ORDERED that the bond previously set in this matter is revoked and that the defendant is hereby remanded to the custody of the United States Marshal pending trial in this matter.

Date: October 9, 2008

s/Michael Hluchaniuk

Michael Hluchaniuk

United States Magistrate Judge

CERTIFICATE OF SERVICE

I hereby certify that on October 9, 2008, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send electronic notification to the following: Norman Donker, AUSA, and Kenneth R. Sasse, Esq., Federal Defender Office, and I hereby certify that I have mailed by United States Postal Service/hand-delivered the paper to the following non-ECF participants: Pretrial Services Officer - Flint, Michigan, U.S. Marshal - Flint, Michigan.

s/James P. Peltier
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